IN THE HGIH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 9459 of 2004

Smt Maya C Bhatia and ors...petitioners

vs

Mun Corpn of Ullhasnagar

and anr.... ..respondents

Mr. Jagdish G Reddy for petitioners

Mr.R.M Sawant Advocate for respondents

CORAM;A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 10.12.2004

P C:

Heard advocates.

l. The petitioners are residents of a building

known as Sukhamani Sagar constructed on Plot No 262, Chalta No l66, CTS No. 2l267 situated at Ullasnagar. It appears that owners of the said plot entered into agreement with the developers on 29.2.l999 for development of land . The developers got the plan sanctioned from the Ullhasnagar Municipal Corporation. The developers however consumed far more FSI than permissible under the D.C.Rules and constructed shops in the stilt area contrary to the building permission and failed to keep even side margins. It appears that the developers allowed the petitioners to occupy the flats without even obtaining completion and occupancy certificates.

2. One Kumar C Talreja filed Writ Petition No.5354 of 2002 complaining against unauthorised cosntruction erected by the developers. The division bench of this court to which one of us (A.P.Shah J.) was a party vide order dated 30.l2.2002 directed the Corporation to take necessary steps in respect ofthe building in question in accordance with law. Pursuant to the said order passed by this court the Corporation has demolished the shops which were unauthorisedly constructed on mazannine floor and stilt portion. It appears that the developer had made a proposal

for regularisation which was rejected by the Corporation.

3. The petitioners submit that they are innocent flat purchasers and they were unaware of the illegalities committed by the developer and they have invested their life time savings in these flats. The petitinoers submit that petitioenr nos. l3 to l6 are owners of entire plot 262 and are willing to allow FSI on the remaining land to be utilized for the buildings so as to regularise the excess FSI consumed by the builder.

4. The learned counserl for the petitioners agree and submit a proposal for regularisation on the above lines within a period of 4 weeks . The Corporation is directed to consider the said proposal on its own merits and pass appropriate orders thereon in accordance with law within a period of 3 months. Till the proposal is disposed of and for a period of 4 weeks thereafter Corporation shall not carry any further demolition in the building. Petition is accordingly disposed of.